

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NAJIB EZZEDDINE SHOUCAIR,

Plaintiff,

CIVIL CASE NO. 05-40341

v.

D. SNACKER et al.,

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT COURT

Defendants.

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**ORDER ACCEPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS**

Plaintiff, a state prisoner currently incarcerated at the Ojibway Correctional Facility, filed a civil rights action under 42 U.S.C. § 1983. Plaintiff claims that Defendants violated his First Amendment right to the free exercise of religion and access to the courts as well as the Eighth and Fourteenth Amendment rights of freedom from cruel and unusual punishment. Now before the Court are Magistrate Judge R. Steven Whalen's two Report and Recommendations, both filed June 9, 2006, and Plaintiff Shoucair's objections. The Magistrate Judge recommends that Defendant Snacker's motion for summary judgment, filed March 6, 2006 be denied without prejudice, Defendant Snacker's motion to dismiss be granted, and Plaintiff's motion for a temporary restraining order and/or preliminary injunction, filed November 8, 2005, be denied. After receiving an extension to file objections, Plaintiff's objections to the report and recommendations were filed August 2, 2006.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and

Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). If a party objects to portions of the Report and Recommendation, the Court reviews those portions de novo. *Id.* The Federal Rules of Civil Procedure dictate this standard of review in Rule 72(b), which states, in relevant part, that

[t]he district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b).

In the instant case, Plaintiff filed only one set of objections. Those objections relate only to the Magistrate Judge's Report and Recommendation that recommends denying Defendant's motion for summary judgment and granting Defendant's motion to dismiss [docket entry 17]. The Court reviews de novo the portions of that Report and Recommendation to which an objection has been made. *See Lardie*, 221 F. Supp. 2d at 807. Because Plaintiff's objections do not relate to the Magistrate Judge's Report and Recommendation that recommends denying Plaintiff's motion for temporary restraining order and/or for a preliminary injunction [docket entry 18], the Court need not conduct a review of any type. *Id.*

De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge; the Court may not act solely on the basis of a Magistrate Judge's Report and Recommendation. *See* 12 Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 3070.2 (1997); *see also Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court may

supplement the record by entertaining additional evidence, but is not required to do so. 12 Wright, Federal Practice § 3070.2. After reviewing the evidence, the Court is free to accept, reject, or modify the findings or recommendations of the Magistrate Judge. *See Lardie*, 221 F. Supp. 2d at 807. If the Court accepts a Report and Recommendation, the Court is not required to state with specificity what it reviewed; it is sufficient for the Court to state that it engaged in a de novo review of the record and adopts the Report and Recommendation. *See id.*; 12 Wright, Federal Practice § 3070.2.

The Court has reviewed the Plaintiff's complaint, the Magistrate Judge's Report and Recommendations, and the Plaintiff's objections. Having conducted this review under the de novo standard for the portions of the Report and Recommendations objected to, as detailed above, the Court concludes that the Magistrate Judge's reasoning and conclusions are sound.

**ACCORDINGLY, IT IS HEREBY ORDERED** that Defendants' objections [docket entry 22] are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Magistrate Judge's Report and Recommendations [docket entry 17 and 18] are **ACCEPTED** and **ADOPTED** as the opinions of this Court.

**IT IS FURTHER ORDERED** that the Plaintiff's complaint [docket entry 1] is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED.**

Dated: September 6, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 7, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Cori Barkman, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Najib Shoucair.

s/Julia Mosher

Julia Mosher, Case Manager  
(810) 341-7845